

AFFIRMATIVE DEFENSE
Alternative Language
Based on Kelly language in *Anderson*

Add the following sentence could be added to Section 8(b).
(That paragraph provides for the defense to be raised by motion and for dismissal if the D shows the required elements)

IF THE COURT DENIES THE MOTION, THE SECTION 8 DEFENSE SHALL BE SUBMITTED TO THE TRIER OF FACT UNLESS GIVEN THE EVIDENCE, THE COURT DETERMINES NO REASONABLE JURY COULD FIND THAT THE ELEMENTS OF THE SECTION 8 AFFIRMATIVE DEFENSE HAD BEEN MET, OR THE SECTION 8 DEFENSE IS BARRED AS A MATTER OF LAW.